

Case Closed. Lee Harvey Oswald and the Assassination of JFK.

By Gerald Posner. (New York: Random House, 1993. Pp. xvi, 607. \$25.00, ISBN 0-679-41825-3.)

good!

Gerald Posner argues that the Warren Commission properly investigated the assassination of JFK. He claims to have refuted the critics, purports to show what actually occurred, and asserts simple factual answers explain complex problems that have plagued the subject for years. In the process he condemns all who do not agree with the official conclusions as theorists driven by conjectures. At the same time his book is so theory driven, so rife with speculation, and so frequently manifested by an inability to conform his text with the factual content in his sources that it stands as one of the stellar instances of irresponsible publishing on this subject.

good

Massive numbers of factual errors suffuse the book making it a veritable minefield. Random samples are: Pontchartrain is a lake not a river. The wounded James Tague stood twenty feet east not under the triple underpass. There were three Philip Geracis not one; he confuses II and III. A tiny fragment not a bullet entered Connally's thigh. ^{but the text he refers to} The Army not the FBI tested the alleged murder rifle. None not three commissioners heard at least half of the hearings. The Warren Commission did not have any investigators. ^{and Posner refers to him as a lieutenant} Captain Donovan is John not Charles. Martin Luther King, Jr., was not a communist. The critics of the official findings are not leftists, but include conservatives such as Cardinal Cushing, William Loeb, and former commissioner, Richard Russell.

good

Posner often presents the opposite of what the evidence says. In the presentation of a corrupt picture of Oswald's background, for example, he states

that under the name of Osborne Oswald picked up leaflets he distributed from the Jones Printing Co. and says the "secretary" identified him. She in fact said Oswald did not pick up the leaflets as the source he cites says. *in date*

No credible evidence connects Oswald to the murder. All the data Posner presents to do so is either shorn of context, corrupted, the opposite of what the sources actually say, or non-sourced. For example, one hundred percent of the witness testimony and physical evidence ~~excludes~~ *with words* Oswald from carrying the rifle to work that day disguised as curtain rods. Posner manipulates the ~~evidence~~ *evidence* to concoct a case against Oswald as with Linnie Mae Randle who swore the package *long to have carried as Oswald allegedly carried* Oswald carried was 28 inches long, far too short to have been a rifle. He grasped its end and it hung from his swinging arm to almost touch the ground. Posner converts this to "tucked under his armpit, and the other end did not quite touch the ground." (225) The rifle was heavily oiled but the paper sack discovered on the sixth floor had not a trace of oil. Posner excludes this vital fact.

To refute criticism that the first of three shots (the magic bullet) inflicted seven non-fatal wounds on two bodies in impossible physical and time constraints he invents a second magic bullet. He asserts Oswald fired the first bullet near frame 160 of the Zapruder film, fifty frames earlier than *previously* held, and missed. The bullet hit a twig or a branch or a tree, he varies it, then *magically* gratuitously separated into its copper sheath and lead composite core. The core did a right angle to fly *more than* west 200 feet to hit a curbstone and wound Tague while the sheath *as seen* decided to fly elsewhere. The curb in fact had been damaged. He omits that analysis of the curb showed the bullet came from the west, which means the bullet would have had to have taken another sui generis turn of 135 degrees to get back west and with sufficient force to smash concrete. *which he pretends was not moved.*

He asserts proof of a core hit because FBI analysis revealed "lead with a trace of antimony" in the damage. What he omits destroys his theory. He does not

explain that a bullet core has several ^{of} metallic ~~trace~~ elements in its composition not two, rendering his conclusion false. He further neglects to inform the reader that in November, 1963, the damage had been covertly patched with a concrete paste; and, that, in August, 1964, the FBI tested scrapings of the paste, not the damage, which gave the "two metal results".

^{He says} The second shot transited JFK's neck and caused the non-fatal wounds striking Connally at z224 where Connally is seen turned to his right, allegedly lining his body up with JFK's neck, thus sustaining the single bullet explanation. ^{in that one frame} Proof a bullet hit then he found in the frame of Connally's lapel flapping as it passed through. But he does not conform to fact. Wind gusting to 20 miles per hour that day ruffled clothing. And, *there is no bullet hole in the lapel* but in the jacket body beneath the right nipple area. The bullet actually hit much later with Connally too far right to have been hit by the JFK bullet, requiring another bullet(s) to account for the wounds and another shooter. ^{on side of}

Can print?

Posner crowns his theory with the certainty of science by using the computer-enhanced studies by Failure Analysis Associates of Menlo Park that his text implies he commissioned. The firm, however, lambasts his use as a "fundamental misrepresentation" of the technology that it had developed for the American Bar Association's mock trial of Oswald where both sides used it and the result was a hung jury.

Case Closed represents the continual failure of institutions to address the controversy surrounding the assassination of President Kennedy with the objectivity and integrity of the historical method necessary to lay it to rest.

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Additional Commentary on *Case Closed*.

For central points within his book Posner utilizes without any question of quality several key "sources." He likewise does not provide the reader with sufficient information on the interviewees to enable a reader to judge the merits of the individuals ability to evaluate events or his propensity to skew or taint the record for personal or political reasons. Some of them are incompetent. This information would temper acceptance of the information and in an ordinary book give the reader pause. That Posner can use these many sources so baldly strikes at the heart of his approach to the murder of JFK. He has accepted the official story in a preconception that fuels his ideology. Two examples are sufficient to illustrate this element.

One of Posner's sources for Oswald's stint in New Orleans was Hubert J. Badeaux, cited six times. He was a New Orleans rightist, who in 1962 published The Underworld of Sex complete with extensive frontal nude photographs. He called nudism a red plot. He also distributed The Federationist that raised the question of whether the esteemed conservative Commission member Hale Boggs was a communist! Who could possibly imagine that a responsible examination of the assassination would turn to such an individual for objective insight into the workings of the New Orleans scene?

A more blatant instance is Bill Alexander. He was an assistant district attorney at the time of the murder used by Posner for back grounding, to obtain critical data, and to provide "judgments" on the critics. Posner omits Alexander's extreme conservatism through which he percolated all judgments and adjusted all facts as well as his personal weaknesses exhibited extensively during the inquiry.

Perhaps the most disqualifying factor in his character arose over the diary issue. The FBI thoroughly investigated Alexander and proved that he had stolen a copy of Oswald's diary from the evidence room and had peddled it to a national publication for money. Then with an effrontery that betrays a failure to understand how political power works he had then blamed the theft on Warren Commission member Congressman Gerald Ford.¹

Our observations on the movement of the rifle into the Depository should be expanded. No finer exposition of this component exists than in Harold Weisberg's *Whitewash*, a classic within the field and a model of historical writing on a contemporary crisis. Only three witnesses saw Oswald go from Irving and into the building carrying a package that he said contained curtain rods, but the Commission said was a dissembled rifle 34.5 inches long plus several inches of paper at the ends. Linnie Mae Randle lived in Irving and saw Oswald leave for work. Despite every effort of the authorities to break her story, and they were considerable, she maintained the package was not over 28 inches long. Oswald hitched a ride with her brother Wesley Frasier, a co-worker. Wesley too endured the federales attempts to change his testimony in saying it was 28 inches long and the paper thinner than that used in the Depository. The FBI measured the place in the back seat of his car where Oswald rested the package during the ride and found to be around 28 inches long. Frasier saw Oswald walk to the Depository with the package. He did not see him go into the Depository. That was done by Jack Dougherty.

Jack Dougherty came to work at seven o'clock to observe the employees enter the building. This was part of his job. Under questioning he twice told the Commission counsel that Oswald entered empty handed. He is the only person

¹FBI files on the investigation in Harold Weisberg's Archive, Alexander file, obtained through FOIA.

who saw Oswald enter the building. No other exists. To the ^{most} bulk of Warren Commission defenders and to Posner of course this is absurdly irrelevant and like Caesar they impose their truth and say Oswald entered with the rifle. Posner gets around the encumbrance by simply rendering it invisible, which is one way to avoid the uncomfortable, but a way that is the bane of scholarship and an act outrageous.

^{probably} What occurred was the Depository had a structure close to the building where employees left personal materials before entering. Oswald no doubt left his package there. From ~~a photograph by a Black Star newsmen~~ ^{we also know that} Oswald's first floor room in Dallas did not ^{need} have curtains, making his pick-up of some curtains at Paine's where they had plenty of spare ones in storage perfectly reasonable.

The package found on the sixth floor under irregular circumstances and claimed to have been the package Oswald carried to work that day came from the Depository's paper; ^{z/} Frazier said it was not the type of paper Oswald had carried to work, commentary hidden in the FBI records. It had marked sealing tape that only came from the Depository tape machine run by Troy West. There is no question about this. But the cockle-burr sticking here is how did Oswald obtain the tape? West never left his machine, even for lunch or breaks. Moreover, the tape as cut and scratched only came out of the machine wet making the movement of the tape to Irving where Oswald allegedly kept the rifle impossible. Furthermore how would Oswald carry it and the packaging paper home with him? Oswald normally roomed in town. When Frazier drove him to Irving the night before he did not ^{see any} have it with him. ^{graph, and it was large}

Posner is also silent on where in Irving at the home of Ruth and Michael Paine did Oswald keep the rifle, although this is at the heart of the evidentiary questions in the case? Oswald stored his personal effects in their garage. They

and how did it get there? Keith loaded the station wagon in New Orleans. Much as we touched it and neither saw it.

were Quakers. They used the garage regularly and never saw the rifle or any blanket covering one either said to have been in plain sight. If this is not enough to damage credibility an even more difficult problem arises that Posner equally fails to address: how would it have gotten to Irving? Oswald did not move his goods there. When he went to Mexico in September Ruth Paine drove his family from New Orleans to Irving *by the station wagon and did not see it when he was loaded it* and in the course of handling the baggage twice never saw the rifle. Michael did not see it either. Neither did Marina.

No scientific tests link the rifle to Oswald. Posner tells the reader that the fibers found did link to Oswald's shirt, but he misreports the findings. They were found to be generically similar to his shirt fibers as well as to billions of other fibers in this world. They were only fibers. Moreover, the police had wrapped the rifle and his shirt together in the blanket when shipping it to the FBI laboratory, destroying any integrity in the evidence and exposing the items to mutual infection. A photograph of it exists. The trumpets used to announce that Oswald's *thumbprint only* fingerprints appeared on the sack claimed to have been found on the sixth floor (in irregular circumstances²) and claimed to have held the rifle simply ignore they should have been there. He worked there. The trumpets fall silent though when it is also found that the authorities did not find on the bag the fingerprints of detective Robert Lee Studebaker of the Crime Scene Search Service who picked it up with his hands (7H137-9). A photograph shows him holding it in his hand. Everything else Studebaker touched left fingerprints (Report, 566).

More than this, the rifle was heavily oiled. Neither the bag nor the blanket had any oil traces on it, a physical impossibility, and exculpatory. Posner finds it not worthy of comment.

²Lt. Carl Day and Studebaker arrived one half hour after the murder and newsmen were already on the sixth floor. The bag was not in fact where it was claimed to have been found. See, Commission hearings and Harold Weisberg, *Whitewash*.

Police Officer Marrion Baker and Building Supervisor Roy Truly ran into the building and up the stairs to confront Oswald on the second floor ~~within much~~ ⁵ less than eighty seconds after the shooting. [The Commission says one minute and eighteen seconds, Report, 152.] Let us note just two of the several elements the authorities and attorney Posner had to bend to get Oswald down there on time. First a witness. The Warren Commission like Posner faced the problem of getting Oswald across the floor of the sixth floor to the back stairs and down in time for the rendezvous. Among the several road blocks in their way was the fact Victoria Adams and Sandra Styles, two women who worked for Scott, Foresman Co. on the fourth floor, used those very stairs apparently at the same time and did not see or hear Oswald on them, a physical impossibility then for Oswald to have used them and evidence that he was did not shoot JFK.³ Adams testified before the Commission that she had left her office for the stairs immediately⁴. — *when is that?*

The Commission compared her testimony with that of Depository employees William Shelley⁵ and Billy Lovelady⁶, found a factual irregularity in that Adams said she had seen the two men upon descending but they did not return to the Depository for several minutes⁷. The Commission concluded Adams erred in her timing and that she descended the stairs several minutes *after* Oswald had. Posner clones the Commission. He then tells the reader (264note) that of Styles and Adams testimony "the critical testimony is from Victoria Adams."

What he omits is that Adams' is the only testimony. Styles became invisible for the Commission--and for Posner and disappears from history. Since she had come down with Adams would you not think she could have been asked some questions about this critical issue? Of course, but the purpose of questioning

³Victoria Adams, Warren Commission *Hearings* CE 1391, p. 2; Sandra Styles, CE 1391, 90.

⁴VIH386-393.

⁵VIH327-334; VIH390-393.

⁶VIH336-341.

⁷Warren Report, 154.

Adams was to confute her obserations not to find truth. Actually there were four women on the fourth floor. In addition to Styles and Adams were co-worker Elsie Dorman⁸ and officer supervisor Dorothy Ann Garner.⁹ These two¹⁰ also were never ask about the time of departure of Adams and Styles. But when you go to the correspondence of the United States Attorney in Dallas you find in Assistant U. S. Atn Mary Jo Stroud's correspondence with Warren Commission Chief Counsel J. Lee Rankin a report on her interview with Garner.¹¹ Stroud's office acted as an organizing center for many witnesses. Garner related to Stroud Adams and Styles had left the office within ten seconds. Rankin never called Garner to testify. Adams testimony on her timing was correct.¹² Oswald was not on the stairs and he had to have been if he had shot JFK.

In addition to a Adams' tale another dimension of the problem in getting Oswald from the sixth floor window down to the second floor in less than eighty seconds is the flight path on the sixth floor. Seconds count. Four physical difficulties impeded rapid progress and alone add too many seconds to Oswald's movement to even get him out of the sixth floor in the allotted time let alone to the second floor rendezvous with Baker and Truly.

First, to move from the window on the south east corner to the stairs at the middle of the back wall Oswald ^{allegedly} had to have scaled a wall of boxes ^{allegedly} erected as an enclosing shield around the window area. Officially these boxes were man tight and could not be squeezed through. (Although Posner squeezes him nonetheless.) No fingerprints were found. Since he had no gloves he had to either scale with his elbows or wipe off after he clambered over, time consuming. (This is ignored.) [I

⁸CE1391, 26.

⁹CE1391, 33.

¹⁰VH706-9, VIH13 relates to Dorman motion picture.

¹¹Stroud to Rankin, Warren Commission Key Persons file, under Adams, National Archives.

¹²The Commission as Posner never ask what happened to Styles who came down the stairs right next to Adams. Lovelady and Shelley only saw one "girl". The women beat Baker and Truly to the first floor.

would observe this is all artificial, false to the facts of the reality of the sixth floor. In several places the boxes on the floor had been moved and re-stacked before the police Crime Search detail arrived and established "truth" by taking photographs, including where the rifle was hidden and the so-called sniper's lair. No one does know or can know what the floor looked like near the window at the time of the shooting.

Second, he had to go not kitty-corner straight to the stairs, but along the walls because the interior was full of boxes ^{stred there, with some} moved over for the floor laying work going on in the west end. This is known beyond question from testimony as well as from photographs. Posner addresses this by removing all internal room barriers from his text. His map has the clogged and impassable interior of the floor removed, thus providing Oswald precious seconds to get to the second floor.

Third, he also had to hide the rifle. When found by the police the rifle was hidden inside a small island of boxes, five feet high, beneath heavy book boxes so well the officers overlooked for some time even though they looked right at the area. To hide the rifle took much time. Posner simply masks this critical aspect of the flight path and has Oswald ^{just the rifle on that corner} shove the rifle down between some boxes as he ran.

Fourth, and last, he walked. Three ear witnesses on the fifth floor did not hear anyone running. The slats of the floor loosely lain made it impossible not to have heard running steps.

Two especially fraudulent components of Posner's muster of "evidence" that the second shot came around z224 were the appearance of Thorburn's Position on JFK and the reaction of Rosemary Willis both discerned on the Zapruder film. On z226-7 President Kennedy's hands are to his throat ^{thrust the rifle} his elbows up and out in an asserted neurological reaction to damage to the ~~sixth-cervical~~ vertebra imposed by the transitting bullet, that allegedly locks the arms in this position, meaning this

"pinpoints the precise time of the second shot" at "frames 223-224."¹³ This part of Posner's argument belongs in the spiel of a nineteenth century traveling medicine showman not in a history. The frames caught the scene in eighteenths of a second, an amazingly brief time. But what is important is that in subsequent frames JFK's arms do not in fact lock but continue to move! His moving arms have been frozen by the camera in a fleeting fragment of a second. There is no Thorburn Position depicted, even assuming it is a valid medical concept. But what reader would have access to the frames of this film? And what reader would normally believe that in a volume by a most reputable publishing house and highly touted author he or she is being given a false description of the movie?

Posner claims that in the Zapruder film on the far side of Elm Street on the curbing the stop and turn of the head of ten year old Rosemary Willis beginning at z187 is to her hearing the first shot at z160.¹⁴ This is bizarre. Who knows what causes a ten year old to stop? What he just omits from his narrative, however, destroys his magic bullet #2 witches brew, which as you recall missed at z160 and did a bumble bee flight to strike the distant curb. This is the evidence provided by Rosemary's fifteen year old sister Linda, her mother Marilyn, and father Phil.

As if and she
Linda had the best position and best view of the assassination by anyone. She stood ten feet away on the left side of the limousine when she heard *the first shot and saw it hit JFK*. Her mother standing next to her stated the same thing. Her father also near by said the same. His statement is reinforced by his relation of hearing the shot and in physical reaction to it snapping his fifth slide, Willis #5. In the sprocket material of z202 he is seen lowering his camera after the snap, the shot have come several frames prior. Moreover, all three would have testified, if

¹³Posner, 328, 329.

¹⁴Posner, 321-322.

the Commission attorneys who carefully controlled all questions and all answers had permitted it, that *the first shot clearly came from the front!*¹⁵

There is a distinct anti-radical cast to Posner's writing. He goes out of his way to attack leftists, self defined, smears the faculty of the University of New Orleans as leftists, denigrates sources who come from the liberal or left of the political spectrum. In fact one could argue that there is a McCarthy-esque cast to his volume. He particularly castigates Sylvia Meagher finding prejudice and bias in her work. Mrs. Meagher, a widow, who worked in New York for the United Nations was a fine scholar a model of objectivity, a friend of young scholars, noted for prescient judgments and everything America could wish for in her citizens. Throughout her life she followed evidence to find truth not crossed by theory. She was driven by a passion for the facts correctly presented. Her *Accessories After the Fact* stands as one of the fine books in American history. She like other responsible critics of the 1960s endured federal attempts to censor her. On one occasion the FBI failed to convince the United Nations to fire her and deprive her of her livelihood.

Perhaps one reason Posner disdains Mrs. Meagher's work is that it refutes much that is in his pol-parrot book. Perhaps the best illustration in the Givens incident. In the *Texas Observer*, April 13, 1971, she published an article on Charles Givens a man who worked with Oswald that day. Posner knew of its existence, but ignored it. It demonstrates that the Commission (and later Posner) suppressed evidence exculpatory of Oswald.

Posner like the Commission is faced with the problem of putting Oswald at the sixth floor window about the time of the crime. He uses Givens to place him

¹⁵Based on the careful restricted testimony before the Warren Commission of Phil Willis, VIIH492-497 and Linda Willis, VIIH498-499. Marilyn Willis was not called to testify. Based also on 1960s correspondence with Phil Willis and taped interviews of Marilyn, Phil, and Linda, Harold Weisberg Archives..

on the sixth floor at 11:45 AM as the rest of the crew went downstairs for lunch.¹⁶ Meagher shows that on November 22 when the FBI interviewed him he reported that at 11:50 AM he saw Oswald on the first floor reading a newspaper.¹⁷ On February 13, 1964, Police Lt. Jack Revill told the FBI "he believes that Givens would change his story for money."¹⁸ On February 25 Commission counsels Joseph Ball and David Belin discussed in a long memorandum the Givens placement on the first floor at 11:50.¹⁹ On April 8 Givens testified before Belin in Dallas²⁰ and said he saw Oswald on the sixth floor at 11:55 when he returned for his cigarettes. Belin twice asked him if he had ever made the statement that he had seen Oswald rading a newspaper in the domino room at around 11:50 that morning. Both times Givens denied having made such a statement.²¹ On June 3 the FBI interviewed him again and Givens said he remembered he returned to the sixth floor at "about 11:45 A. M. to get his cigarettes . . . [and] saw Lee Harvey Oswald."²²

Posner also ignored Howard Roffman's *Presumed Guilty*, no doubt for the same reason he eschewed Meagher's findings. Roffman shows Oswald with an alibi for being on the first floor at the time of the shooting.

With rare exception, I know of only three regional examples, the major media and book review systems praised Posner's book. No subject matter specialists were used to examine the book, to search out the footnotes, to examine the postulates and corruptions and to be honest in their appraisals. Several book clubs took it as main selections, including the History Book Club. In Wisconsin I had a major newspaper almost reject my critical commentaries on the assassination

¹⁶Posner, 225-227.

¹⁷Commission document (CD) 5, 329.

¹⁸CD735, 296.

¹⁹Memorandum, Commission Archives.

²⁰6H345-56.

²¹6H352, 354.

²²CD1245, 182.

in a general story because of Posner's book, only because of a friend was I able to block that. There are other instances for me and many for serious, responsible critics many more. Thus, the avid reception of this terribly dishonest and false book by the mediating structures of society, like a famished hunting dog eats bisquits tossed to him, raises other questions about the nature of American society: what is the role of honest historical work in critical subjects? The old Greeks used the words ["]pou ["]stou, a place to stand. American society must seriously reflect on this issue.

There is much more to be said about Gerald Posner's book, enough to fill a quite thick volume. Time and space intervene. If one were to read Harold Weisberg's *Whitewash*, and his *Post Mortem* that is all one would need to easily be able to cut through the circus-tissue world of this heavily speculative, theorized solution to the murder of President Kennedy and recognize it as dishonest, a patent-office fake.